

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

MARIA SOSA,

No. C 14-3666 RS

Plaintiff,

v.

**ORDER ADOPTING REPORT AND  
RECOMMENDATION TO REMAND  
ACTION**

NATHANIEL BASOLA SOBAYO,

Defendant.

This matter was filed as an unlawful detainer in San Mateo County Superior Court. Appearing *in pro se*, defendant Mr. Sobayo filed a notice of removal. Upon removal, the case was assigned to a magistrate judge. The magistrate judge issued an Order to Show Cause for removal jurisdiction, as well as a Report and Recommendation that the matter be remanded to state court for lack of jurisdictional grounds to support the removal. The matter was then reassigned to the undersigned for disposition.

The time for objecting to the Report and Recommendation has expired and no objections have been filed. For the reasons explained in the Report and Recommendation, removal jurisdiction based on federal question or diversity is absent. As further explained in the Report and Recommendation, the sole state-law claim for unlawful detainer stated in the complaint does not provide a federal question basis for removal; it is purely a creature of California law. *Wells Fargo*

1 *Bank v. Lapeen*, 2011 WL 2194117, at \*3 (N.D. Cal. June 6, 2011). And even if Mr. Sobayo were  
2 to aver diversity jurisdiction, plaintiff Ms. Sosa brought this action in California. Mr. Sobayo is a  
3 citizen of California and therefore is not entitled to removal on diversity grounds. *See* 28 U.S.C. §  
4 1441(b)(2) (stating that a civil action “removable solely on the basis of the jurisdiction under section  
5 1332(a) . . . may not be removed if any of the parties in interest properly joined and served as  
6 defendants is a citizen of the State in which such action is brought”). While Mr. Sobayo’s Response  
7 to the Order to Show Cause avers that the amount in controversy is \$1,630,500—in excess of the  
8 \$75,000 minimum—it nevertheless fails to allege facts that surmount these other hurdles to removal  
9 jurisdiction. Accordingly, this action is hereby remanded to San Mateo County Superior Court.

10  
11 IT IS SO ORDERED.

12  
13 Dated: 9/10/14



RICHARD SEEBORG  
UNITED STATES DISTRICT JUDGE